



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,110	07/25/2003	Harry Michael Schell	9400-31	3761
39072	7590	10/29/2008		
AT&T Legal Department Attn: Patent Docketing Room 2A-207 One AT&T Way Bedminster, NJ 07921			EXAMINER RIES, LAURIE ANNE	
			ART UNIT	PAPER NUMBER
			2176	
			MAIL DATE	DELIVERY MODE
			10/29/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte: HARRY MICHAEL SCHELL

Application No. 10/627,110
Technology Center 2176

Mailed: October 29, 2008

Before DELORES LOWE, *Paralegal Specialist*
LOWE, *Paralegal Specialist*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on September 30, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter requiring attention prior to docketing.

APPEAL BRIEF, GROUNDS OF REJECTION

A review of the file finds that the grounds of rejection of the claims as provided in the Appeal Brief filed September 18, 2007 under the heading “Grounds of rejection to be reviewed on appeal” is unclear and/or is not consistent with the grounds of rejection of claims of record. The grounds of rejection of the claims as provided in the Appeal Brief must be consistent with the last Office action of record, including any Advisory action responsive to any after final submissions. Each Grounds of rejection to be reviewed on appeal must be identified.

A review of the last Office action, including any mailed Advisory Action(s) finds that claims 2-4, 6-7, 12-14, and 16-17 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka (U.S. Publication 2004/0001223 A1); **claims 8 and 18** remain rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka (U.S. Publication 2004/0001223 A1) in view of **Digate (U.S. Publication 2004/0161080 A1)** and **claims 9-10 and 19-20** remain rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka (U.S. Publication 2004/0001223 A1) in view of Berard (U.S. Patent 6,906,917 B1); whereas Appellant has either not indicated the

grounds of rejection of these claims or has improperly listed these claims as claims 6 and 16 and dependent claims 2-4, 7, 12-14, **15** and 17 properly rejected under 35 U.S.C. 103(a) as unpatentable over U.S. Patent Application Publication No. 2004/0001223 to Tanaka; **claims 7 and 17** properly rejected under 35 U.S.C. 103(a) as unpatentable over Tanaka; and **claims 9 and 19** properly rejected under 35 U.S.C. 103(a) as unpatentable over Tanaka in view of Berard. Correction of the Grounds of rejection to be reviewed on appeal for all claims is required.

Accordingly, it is **ORDERED** that the application is returned to the Examiner:

- 1) to hold the Appeal Brief filed on September 18, 2007 defective;
- 2) notify Appellant to file a paper properly addressing the Grounds of rejection of all claims;
- 3) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DAL/

Application No. 10/627,110

MYERS, BIGEL, SIBLEY & SAJOVEC, P.A.

P.O. BOX 37428

RALEIGH, NC 27627